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DEPARTMENT OF COMMERCE

International Trade Administration

[A-580-876]

Welded Line Pipe from the Republic of Korea: Notice of Court Decision Not in Harmony with the Amended Final Determination in the Less-Than-Fair-Value Investigation, and Notice of Amended Final Determination and Amended Antidumping Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: On March 24, 2020, the U.S. Court of International Trade (CIT) sustained the Department of Commerce's (Commerce's) second remand redetermination pertaining to the less-than-fair-value (LTFV) investigation of welded line pipe (WLP) from the Republic of Korea (Korea). Commerce is notifying the public that the final judgment in this case is not in harmony with Commerce's amended final determination in the LTFV investigation of WLP from Korea and that Commerce is amending the amended final determination and antidumping duty order with respect to the weighted-average dumping margin for Hyundai HYSCO Co. Ltd. (Hyundai HYSCO).

DATES: Applicable April 3, 2020.

FOR FURTHER INFORMATION CONTACT: David Goldberger or Joshua Tucker, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4136 and (202) 482-2044, respectively.

SUPPLEMENTARY INFORMATION:

Background

On October 13, 2015, Commerce published its *Final Determination* in the LTFV investigation of WLP from Korea.¹ Subsequently, on November 10, 2015, Commerce published its *Amended Final Determination*.² On December 1, 2015, Commerce published the *Order* resulting from the investigation.³ As reflected in Commerce's *Amended Final Determination* and *Order*, Commerce calculated weighted-average dumping margins of 6.23 percent for Hyundai HYSCO, 2.53 percent for SeAH Steel Corporation (SeAH), the other mandatory respondent in the investigation, and 4.38 percent for all others.⁴

Hyundai HYSCO, SeAH, and the petitioners⁵ appealed Commerce's *Final Determination*, as amended by the *Amended Final Determination*, and resulting *Order* to the CIT. On January 8, 2019, the CIT remanded for Commerce to explain or reconsider its decision to include certain "local sales" in Hyundai HYSCO's home market sales database.⁶ Separately, the CIT held that Commerce's rejection of Maverick's September 8, 2015 supplemental case brief constituted an abuse of discretion, and remanded for Commerce to review and determine which portions should be retained on the record.⁷ On May 2, 2019, Commerce issued the *First Remand Results*, in which it determined that Hyundai HYSCO knew, or should have known, that

¹ See *Welded Line Pipe from the Republic of Korea: Final Determination of Sales at Less Than Fair Value*, 80 FR 61366 (October 13, 2015) (*Final Determination*), and accompanying Issues and Decision Memorandum (IDM).

² See *Welded Line Pipe from the Republic of Korea: Amended Final Determination of Sales at Less Than Fair Value*, 80 FR 69637 (November 10, 2015) (*Amended Final Determination*).

³ See *Welded Line Pipe from the Republic of Korea and the Republic of Turkey: Antidumping Duty Orders*, 80 FR 75056 (December 1, 2015) (*Order*).

⁴ See *Amended Final Determination*, 80 FR at 69638; see also *Order*, 80 FR at 75057.

⁵ The petitioners are: Stupp Corporation, a division of Stupp Bros., Inc., TMK IPSCO, Welspun Tubular LLC USA, and Maverick Tube Corporation (Maverick).

⁶ See *Stupp Corporation et al. v. United States*, 359 F. Supp. 3d 1293, 1309-1312 (CIT 2019).

⁷ *Id.*, 359 F. Supp. 3d. at 1311-12.

certain “local sales” included in its home market database would be exported without further processing in Korea.⁸ Accordingly, Commerce reclassified these sales and excluded them from the calculation of normal value (NV), which resulted in a recalculated weighted-average dumping margin of 6.22 percent for Hyundai HYSCO.⁹ In addition, Commerce reopened the administrative record to permit Maverick to place its September 8, 2015 supplemental case brief on the record in its entirety, and to permit other interested parties to submit rebuttal briefs in response to Maverick’s supplemental case brief. Consistent with its practice to determine home market viability early in a proceeding, Commerce did not reconsider Hyundai HYSCO’s home market viability.¹⁰

The CIT, however, subsequently held that, by refusing to reassess the viability of HYSCO’s home market, “Commerce failed to comply with its statutory and regulatory mandate to ensure the sufficiency of the home market as a basis for normal value.”¹¹ On that basis, it remanded to Commerce to further explain or reconsider Hyundai HYSCO’s home market viability.¹²

On January 14, 2020, Commerce issued the *Second Remand Results* in accordance with the CIT’s order.¹³ On remand, Commerce provided further explanation regarding Hyundai HYSCO’s home market viability. Specifically, Commerce explained that Hyundai HYSCO’s home market sales quantity was sufficient to permit Commerce to make a proper comparison

⁸ See Final Results of Redetermination Pursuant to Court Remand, Consol. Court No. 15-00334, dated May 2, 2019 (*First Remand Results*).

⁹ *Id.* at 13.

¹⁰ *Id.*

¹¹ See *Stupp Corporation et al. v. United States*, 413 F. Supp. 3d 1326, 1332 (CIT 2019).

¹² *Id.*, 413 F. Supp. 3d at 1333.

¹³ See Final Results of Redetermination Pursuant to Second Court Remand, Consol. Court No. 15-00334 (January 14, 2020) (*Second Remand Results*).

between export price and NV, consistent with its statutory and regulatory mandates. On March 24, 2020, the CIT sustained Commerce’s *Second Remand Results*.¹⁴

Timken Notice

In its decision in *Timken*,¹⁵ as clarified by *Diamond Sawblades*,¹⁶ the Court of Appeals for the Federal Circuit held that, pursuant to section 516A of the Tariff Act of 1930, as amended (the Act), Commerce must publish a notice of court decision that is not “in harmony” with a Commerce determination and must suspend liquidation of entries pending a “conclusive” court decision.¹⁷ The CIT’s March 24 2020 judgment constitutes a final decision of that court that is not in harmony with Commerce’s *Final Determination*, *Amended Final Determination*, and *Order*. Thus, this notice is published in fulfillment of the publication requirements of *Timken* and section 516A of the Act.

Amended Final Determination and Amended Order

Because there is now a final court decision, Commerce is amending its *Amended Final Determination* and *Order* with respect to the weighted-average dumping margin for Hyundai HYSCO.¹⁸ The revised weighted-average dumping margin is as follows:

| Exporter/Producer | Weighted-Average Dumping Margin (percent) |
|-------------------------|---|
| Hyundai HYSCO Co., Ltd. | 6.22 |

¹⁴ See *Stupp Corporation et al. v. United States*, Consol. Court No. 15-00334, Slip Op. 20-38, dated March 24, 2020.

¹⁵ See *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

¹⁶ See *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F. 3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

¹⁷ See sections 516A(c) and (e) of the Act.

¹⁸ The change to Hyundai HYSCO’s margin did not affect the calculation of the all-others rate. See *First Remand Results* at 13.

Cash Deposit Requirements

Because there have been subsequent administrative reviews for Hyundai Steel Company (Hyundai Steel), the successor company to Hyundai HYSCO,¹⁹ the cash deposit rate for Hyundai Steel will remain the rate established in the most recently-completed administrative review (*i.e.*, 29.89 percent).²⁰

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(c)(1) and (e), and 777(i)(1) of the Act.

Dated: April 1, 2020.

Jeffrey I. Kessler,
Assistant Secretary
for Enforcement and Compliance.

¹⁹ As discussed in the *Final Determination*, and accompanying IDM at 1, Hyundai HYSCO merged with Hyundai Steel subsequent to the period of investigation and Hyundai HYSCO no longer exists.

²⁰ See *Welded Line Pipe From the Republic of Korea: Amended Final Results of Antidumping Duty Administrative Review; 2016-2017*, 84 FR 35371, 35372 (July 23, 2019).

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